

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995

# A Bill

HOUSE BILL 1564

4 By: Representatives M. Wilson, D. Wood, and Ferguson

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## For An Act To Be Entitled

8 *"AN ACT TO ASSURE THE GATEKEEPER SYSTEM IS PRESERVED AND*  
9 *EXISTING CONTRACTS ARE NOT IMPAIRED UNDER THE PROVISIONS*  
10 *OF THE PATIENT PROTECTION ACT OF 1995; AND FOR OTHER*  
11 *PURPOSES."*

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## Subtitle

14 *"TO PRESERVE THE GATEKEEPER SYSTEM AND*  
15 *AVOID IMPAIRMENT OF EXISTING CONTRACTS*  
16 *UNDER THE PROVISIONS OF THE PATIENT*  
17 *PROTECTION ACT OF 1995."*

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 *SECTION 1. Section 3 of Act 505 of 1995 is amended to read as follows:*

22 *"SECTION 3. (a) \_Copayment\_ means a type of cost sharing whereby*  
23 *insured or covered persons pay a specified predetermined amount per unit of*  
24 *service or percentage of health care costs with their health care insurer*  
25 *paying the remainder of the charge. The copayment is incurred at the time*  
26 *the service is rendered. The copayment may be a fixed or variable amount.*

27 *(b) \_Gatekeeper system\_ means a system of administration used by any*  
28 *health benefit plan in which a primary care provider furnishes basic patient*  
29 *care and coordinates diagnostic testing, indicated treatment, and specialty*  
30 *referral for persons covered by the health benefit plan.*

31 *(c) \_Health benefit plan\_ means any entity or program that provides*  
32 *reimbursement, including capitation, for health care services, except and*  
33 *excluding any entity or program that provides reimbursement and benefits*  
34 *pursuant to Amendment 26 to the Constitution of the State of Arkansas, Act*  
35 *796 of 1993, or the Public Employee Workers\_ Compensation Act, and rules,*

1 regulations and schedules adopted thereunder.

2 (d) *\_Health care provider\_ means those individuals or entities*  
3 *licensed by the state of Arkansas to provide health care services limited to*  
4 *the following: physicians and surgeons (M.D.'s and D.O.'s), podiatrists,*  
5 *chiropractors, physical therapists, speech pathologists, audiologists,*  
6 *dentists, optometrists, hospitals, hospital based services, psychologists,*  
7 *licensed professional counselors, respiratory therapists, pharmacists,*  
8 *occupational therapists and long-term care facilities, home health care and*  
9 *hospice care, licensed ambulatory surgery centers, rural health clinics,*  
10 *licensed certified social workers, licensed psychological examiners, advanced*  
11 *practice nurses, licensed dieticians and community mental health centers or*  
12 *clinics, certified orthotists and prosthetists.*

13 (e) *\_Health care services\_ means services and products provided by a*  
14 *health care provider within the scope of the provider\_s license.*

15 (f) *\_Health care insurer\_ means any entity, including but not limited*  
16 *to insurance companies, hospital and medical services corporations, health*  
17 *maintenance organizations, preferred provider organizations, physician*  
18 *hospital organizations, third-party administrators, and prescription benefit*  
19 *management companies authorized to administer, offer or provide health*  
20 *benefit plans."*

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22 SECTION 2. Section 4 of Act 505 of 1995 is amended to read as follows:

23 "SECTION 4. (a) A health care insurer shall not, directly or  
24 indirectly:

25 (1) *Impose a monetary advantage or penalty under a health*  
26 *benefit plan that would affect a beneficiary\_s choice among those health care*  
27 *providers who participate in the health benefit plan according to the terms*  
28 *offered. Monetary advantage or penalty includes higher copayment, a*  
29 *reduction in reimbursement for services, or promotion of one health care*  
30 *provider over another by these methods; or*

31 (2) *Impose upon a beneficiary of health care services under a*  
32 *health benefit plan any copayment, fee or condition that is not equally*  
33 *imposed upon all beneficiaries in the same benefit category, class or*  
34 *copayment level under that health benefit plan when the beneficiary is*  
35 *receiving services from a participating health care provider pursuant to that*

1 health benefit plan.

2           (3) Prohibit or limit a health care provider that is qualified  
3 under Section 3(d) and is willing to accept the health benefit plan\_s  
4 operating terms and conditions, its schedule of fees, covered expenses,  
5 utilization regulations and quality standards, the opportunity to participate  
6 in that plan.

7           (b) Nothing in this act shall prevent a health benefit plan from  
8 instituting measures designed to maintain quality and to control costs,  
9 including but not limited to the utilization of a gatekeeper system, as long  
10 as such measures are imposed equally on all providers in the same class."

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12           SECTION 3. Section 5 of Act 505 of 1995 is amended to read as follows:

13           "SECTION 5. Nothing in this act shall be construed to require any  
14 health care insurer to cover any specific health care service. Provided,  
15 however, no condition or measure shall have the effect of excluding any type  
16 or class of provider qualified under Section 4(a)(3) to provide that  
17 service."

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19           SECTION 4. Section 7 of Act 505 of 1995 is amended to read as follows:

20           "SECTION 7. To avoid impairment of existing contracts, the Patient  
21 Protection Act of 1995 shall only apply to contracts issued or renewed after  
22 the effective date of this act. Any provision in a health benefit plan which  
23 is executed, delivered or renewed, or otherwise contracts for provision of  
24 services in this state that is contrary to this act shall, to the extent of  
25 the conflict, be void."

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27           SECTION 5. The provisions of the Patient Protection Act of 1995, Act  
28 505 of 1995, shall not apply to self-funded or other health benefit plans  
29 that are exempt from state regulation by virtue of the federal Employee  
30 Retirement Income Security Act of 1974, as amended.

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32           SECTION 6. All provisions of this act of a general and permanent  
33 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
34 Code Revision Commission shall incorporate the same in the Code.

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1 SECTION 7. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

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7 SECTION 8. All laws and parts of laws in conflict with this act are  
8 hereby repealed.

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10 SECTION 9. In the event any portion of this act is found to be in  
11 violation of federal law or in conflict therewith, or held to be  
12 unconstitutional, that portion shall hereby be repealed and all other  
13 portions of this act shall remain in force.

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*/s/Rep. M. Wilson, et al*

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